

REMARKS

In the outstanding official action, claims 1-8 were rejected under 35 USC 103(a) as being unpatentable over Wierenga et al in view of Nagata et al, Zhou and Hanaoka et al, for the reasons of record. In response, it is respectfully submitted that the currently-pending claims are clearly patentably distinguishable over the cited and applied references for the reasons detailed below.

At the outset, it is respectfully submitted that there is no apparent reason absent the benefit of impermissible hindsight to combine the diverse teachings of these four references, each of which is admitted in the Action to be deficient in some key area of the instant invention as claimed. Thus, for example, it is admitted in the Action that Wierenga does not teach the specific recording layer composition recited, and also does not teach the use of crystallization promoting layers or the specific materials used for these layers. It is respectfully submitted that such multiple and serious deficiencies in the primary reference cannot be overcome by combining the teachings of the primary reference with a multitude of secondary references, which themselves are admitted to contain further deficiencies. Thus, it is admitted in the Action that Nagata does not teach the thickness of the interface layers to be less than 5nm, and also does not teach the

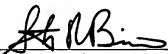
specific composition of the recording layer. It is respectfully submitted that, absent the benefit of impermissible hindsight derived from the instant disclosure, it would require undue experimentation to determine precisely which references, and which portions of these references, might advantageously be combined to yield the instant invention.

Furthermore, it is respectfully submitted that even if the teachings of these references were to be combined in the manner suggested in the Action, the instant invention as claimed would be neither shown nor suggested thereby. Thus, for example, independent claim 1 recites the presence of a transparent crystallization promoting layer having a thickness smaller than 5nm in contact with the further recording layer. It is suggested in the Action that Zhou shows a similar teaching, but in fact it is admitted in the Action that the crystallization acceleration layers of Zhou can have a thickness of between 0.1 and 10 nm. Accordingly, one of ordinary skill in the art, even if they were motivated to combine the four diverse references cited in the Action, would not obtain the instant invention as claimed, at least in that over 50% of the range of layer thicknesses disclosed in Zhou fall outside the recited thickness range of independent claim 1 of the instant application.

In view of the foregoing, it is respectfully submitted that

independent claim 1, and the remaining claims depending therefrom, are clearly patentably distinguishable over the cited and applied references, even if it is assumed for argument's sake that these references are properly combinable. Accordingly, allowance of the instant application is respectfully submitted to be justified, and favorable consideration is earnestly solicited.

Respectfully submitted,

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